

Ordinance No. 122055

Council Bill No. 115518

AN ORDINANCE relating to Seattle Public Utilities, amending Seattle Municipal Code Subchapters 22.800.030 and 22.802.012 to clarify the City of Seattle's regulation of pollutants discharged directly or indirectly into surface waters within or contiguous to the city's boundaries.

CF No. _____

Date Introduced:	MAR 20 2006	
Date 1st Referred:	MAR 20 2006	To: (committee)
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	4-3-06	Full Council Vote: 7-0
Date Presented to Mayor:	4-4-06	Date Approved: 4-14-06
Date Returned to City Clerk:	4-14-06	Date Published: 2899-06 T.O. P.T. 7
Date Vetoes by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

The City of Seattle - Legislative
Council Bill/Ordinance sponsor

Com

3/28/06 - passed unanimously

4-3-06 Passed 7-0

Circulated: 12/06

This file is complete and ready for presentation

Law Department

Law Dept. Review

OMP
Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Richard Conlin

Councilmember

Committee Action:

3/28/06 - passed unanimously 2-0 yes, Conlin, Clark

4-3-06 Passed 2-0

(Excused: Drago, Licata)

This file is complete and ready for presentation to Full Council.

Committee: RC 3/28/06
(initial/date)

Law Department

Law Dept. Review

OMP
Review

City Clerk
Review

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ORDINANCE 122055

AN ORDINANCE relating to Seattle Public Utilities, amending Seattle Municipal Code Subchapters 22.800.030 and 22.802.012 to clarify the City of Seattle's regulation of pollutants discharged directly or indirectly into surface waters within or contiguous to the city's boundaries.

WHEREAS, protecting Seattle's water bodies is a central goal of the Mayor's Restore Our Waters strategy and Seattle Public Utilities Comprehensive Drainage Plan; and

WHEREAS, clarifying regulations relating to the direct discharge of pollutants to waters within or contiguous to the city's boundaries is a stated goal of Seattle Public Utilities' Comprehensive Drainage Plan; and

WHEREAS, at various locations throughout the city, properties in close proximity to waters within or contiguous to the city's boundaries, including lakes, streams, Puget Sound and other waters, discharge potentially polluted waters directly or through drainage systems other than a public drainage control system into those bodies of water; and

WHEREAS, the Stormwater, Grading and Drainage Control Code, Chapter 22.800 of the Seattle Municipal Code, does not clearly establish the City's ability to regulate the discharge of pollutants into surface waters, directly or indirectly, through means other than a public drainage control system; and

WHEREAS, the City desires to prevent harm to its citizens and the environment; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code Subchapter 22.800.030 is hereby amended to read as follows:

This subtitle applies to:

- A. All grading and drainage and erosion control, whether or not a permit is required; and
- B. All new or replaced impervious surface and all land disturbing activities, whether or not a permit is required; and
- C. All discharges directly or indirectly to a public drainage control system; and
- D. All discharges directly or indirectly into surface waters within or contiguous to Seattle city limits; and
- ((D.)) E. All new and existing land uses.


NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

Section 2. SMC Subchapter 22.802.012 is amended as follows:

B. Discharges Prohibited to Surface Waters and Public Drainage Control Systems. It is unlawful to make illicit discharges, as defined in subsection C below, either directly or indirectly to surface waters within or contiguous to Seattle city limits or to a public drainage control system.

Section 6. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 30th day of April, 2006, and signed by me in open session in authentication of its passage this 30th day of April, 2006.



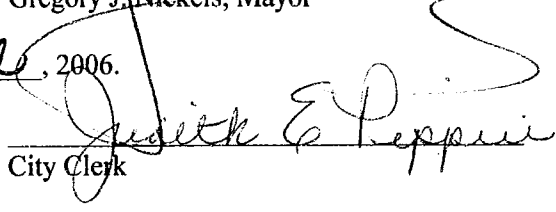
President _____ of the City Council

Approved by me this 14th day of April, 2006.



Gregory J. Nickels, Mayor

Filed by me this 14 day of April, 2006.



City Clerk

(Seal)





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

March 7, 2006

Honorable Nick Licata
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Licata:

I am pleased to transmit the attached proposed Council Bill that amends and clarifies the Stormwater, Grading and Drainage Code (SMC 22.800) with respect to controlling the discharge of pollutants directly, or through private drainage systems, into surface waters. The amendment provides benefits to Seattle's citizens and the environment by clearly prohibiting the discharge of pollutants through private drainage systems or directly into surface waters. A clarification that discharge of pollution through these avenues is prohibited, just as it is prohibited through the public drainage control system, will result in healthier water bodies as inspectors are better able to respond to complaints and conduct business inspections.

The Stormwater Code clarification in this Bill will provide clear authority to control pollution from those properties closest to surface waters. Clear pollution control authority will better protect the health and welfare of Seattle's citizens and the environment. Thank you for your consideration of this legislation. Should you have questions, please contact Louise Kulzer at 733-9162.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels", written over a horizontal line.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

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FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Seattle Public Utilities	Louise Kulzer, 733-9162, Darla Inglis, 233-7160	John McCoy, 615-0768

Legislation Title: AN ORDINANCE relating to Seattle Public Utilities, amending Seattle Municipal Code Subchapters 22.800.030 and 22.802.012 to clarify the City of Seattle's regulation of pollutants discharged directly or indirectly into surface waters within or contiguous to the city's boundaries.

- **Summary of the Legislation:** This Bill clarifies the City's regulation of the discharge of pollutants into surface waters in, and contiguous to, Seattle city limits, such as lakes, streams, and Puget Sound. Currently, the Stormwater Code applies to "all discharges directly or indirectly to a public drainage control system..." (Seattle Municipal Code 22.800.030.C). It is not clear that pollution discharged into a surface water body, either directly or indirectly, through a drainage system other than a public drainage control system is intended to be covered. The proposed ordinance removes this ambiguity by adding language to key Code sections covering surface waters. This amendment makes clear that the City has the authority to regulate discharge of pollutants that may reach surface waters without entering the public drainage control system.
- **Background:** When the Stormwater Code sections prohibiting the discharge of pollutants to the public storm drainage system were last revised, the focus was on compliance with the Seattle's National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permit. The NPDES permit focuses on the Municipal Separate Storm Sewer System. As a result, the Code was drafted without explicitly including pollutant discharges that could enter surface waters directly without entering the public drainage control system. Seattle Public Utilities has found that Seattle needs clear authority to manage "direct discharge" pollution situations for two reasons:
 - to more pro-actively prevent harm to its citizens and the environment; and
 - to maximize the benefit and longevity of sediment cleanup and remediation projects.

There is also an equity issue within the regulated business community. Currently most upstream businesses discharge into the public storm drainage system and are subject to the source control requirements of SMC 22.800, including enforcement action if they do not comply. It is not clear that businesses that discharge into surface waters through a drainage system other than a public drainage control system are subject to the same requirements. This ambiguity would be eliminated by the proposed amendment.

Louise Kulzer/ BG/SK/JHT
Date: 2/17/06
SPU Drainage Code FISCAL
Version #: 2

The proposed Code amendments are consistent with the Mayor's Restore Our Waters strategy and SPU's Comprehensive Drainage Plan adopted by Council in January, 2005.

- Please check one of the following:

 X **This legislation does not have any financial implications.**

 This legislation has financial implications.

Appropriations:

Fund Name and Number	Department	Budget Control Level*	2005 Appropriation	2006 Anticipated Appropriation
NA				
TOTAL				

**See budget book to obtain the appropriate Budget Control Level for your department.*

Notes: No additional appropriations are requested. This code amendment will increase the number of businesses regulated by 300-400 (about 10 percent of the current total). However, there will be no fiscal impact, since surface water quality staff already inspect many of these businesses, and the number of inspections is determined by staff size. Increasing pollution enforcement efforts is an objective of both the Mayor's Restore Our Waters strategy and SPU's Comprehensive Drainage Plan. Appropriate resources for code enforcement will be addressed through SPU's 2006 Adopted Budget from the Drainage and Wastewater Fund. Any decision to increase enforcement capacity will occur in the context of the 2007/2008 budget process.

Anticipated Revenue/Reimbursement: Resulting From This Legislation:

Fund Name and Number	Department	Revenue Source	2005 Revenue	2006 Revenue
NA				
TOTAL				

Notes:



Total Regular Positions Created Or Abrogated Through This Legislation, Including FTE Impact:

Position Title and Department*	Fund Name	Fund Number	Part-Time/ Full Time	2005 Positions	2005 FTE	2006 Positions**	2006 FTE**
NA							
TOTAL							

* List each position separately

** 2007 positions and FTE are total 2007 position changes resulting from this legislation, not incremental changes. Therefore, under 2007, please be sure to include any continuing positions from 2006

Notes:

- **Do positions sunset in the future?** (If yes, identify sunset date):

Spending/Cash Flow:

Fund Name and Number	Department	Budget Control Level*	2005 Expenditures	2006 Anticipated Expenditures
NA				
TOTAL				

* See budget book to obtain the appropriate Budget Control Level for your department.

Notes:

- **What is the financial cost of not implementing the legislation?** None.

What are the possible alternatives to the legislation that could achieve the same or similar objectives? (Include any potential alternatives to the proposed legislation, such as reducing fee-supported activities, identifying outside funding sources for fee-supported activities, etc.)

None. The City is not required to make this change; however, SPU believes it is in the City's (and rate-payer's) best interest to have better ability to regulate the discharge of pollutants. This is particularly important in those waters where the Utility is undertaking sediment clean-up actions, which may be required by the State or Federal government.

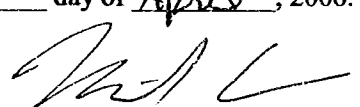
- **Is the legislation subject to public hearing requirements?** No.
- **Other Issues** (including long-term implications of the legislation):

Section 2. SMC Subchapter 22.802.012 is amended as follows:

B. Discharges Prohibited to Surface Waters and Public Drainage Control Systems. It is unlawful to make illicit discharges, as defined in subsection C below, either directly or indirectly to surface waters within or contiguous to Seattle city limits or to a public drainage control system.

Section 6. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 3rd day of April, 2006, and signed by me in open session in authentication of its passage this 3rd day of April, 2006.


President Proteau of the City Council

Approved by me this 3rd day of April, 2006.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2006.

City Clerk

(Seal)

STATE OF WASHINGTON - KING COUNTY

--SS.

197287
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

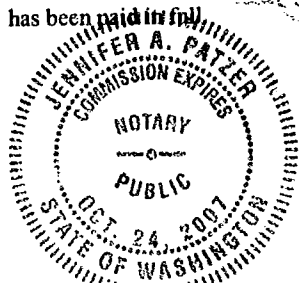
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122055 ORDINANCE

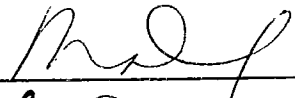
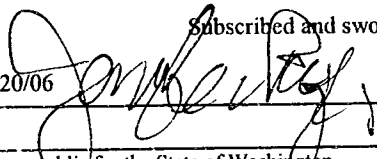
was published on

04/20/06

The amount of the fee charged for the foregoing publication is the sum of \$ 131.10, which amount has been paid in full.



Affidavit of Publication


Subscribed and sworn to before me on
04/20/06 
Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

ORDINANCE 122055

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WHEREAS, clarifying regulations relating to the direct discharge of pollutants to waters within or contiguous to the city's boundaries is a stated goal of Seattle Public Utilities' Comprehensive Drainage Plan; and

WHEREAS, at various locations throughout the city, properties in close proximity to waters within or contiguous to the city's boundaries, including lakes, streams, Puget Sound and other waters, discharge potentially polluted waters directly or through drainage systems other than a public drainage control system into those bodies of water; and

WHEREAS, the Stormwater, Grading and Drainage Control Code, Chapter 22.800 of the Seattle Municipal Code, does not clearly establish the City's ability to regulate the discharge of pollutants into surface waters, directly or indirectly, through means other than a public drainage control system; and

WHEREAS, the City desires to prevent harm to its citizens and the environment; NOW, THEREFORE,

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C. All discharges directly or indirectly to a public drainage control system; and

D. All discharges directly or indirectly into surface waters within or contiguous to Seattle city limits; and

((B-)) E. All new and existing land uses.

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...

Section 6. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 24.020.

Passed by the City Council the 3rd day of April, 2006, and signed by me in open session in authentication of its passage this 3rd day of April, 2006.

Nick Licata

President of the City Council

Approved by me this 14th day of April, 2006.

Gregory J. Nickels, Mayor

Filed by me this 16th day of April, 2006.

(Seal) Judith Pippin

City Clerk

Publication or filing by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, April 20, 2006.

4/20(197287)

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